

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDY P. SMITH,

Petitioner,

Case No. 16-cv-12241

Hon. Matthew F. Leitman

v.

GEORGE STEPHENSON,

Respondent.

**ORDER DENYING WITHOUT PREJUDICE (1) PETITIONER'S
MOTION FOR APPOINTMENT OF COUNSEL [Dkt. 18], AND (2)
PETITIONER'S MOTION FOR EVIDENTIARY HEARING [Dkt. 19]**

This is a habeas action brought by a state prisoner under 28 U.S.C. § 2254. Petitioner seeks appointment of counsel to represent him in this proceeding. [Dkt. 18]. He also seeks an evidentiary hearing to make a factual record in support of his habeas claims. [Dkt. 19].

The Court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987). A habeas petitioner may obtain representation at any stage of the case “[w]henver the United States magistrate or the court determines that the interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B). The Court finds that it is premature to determine whether justice requires appointment of counsel. The Court will reconsider this request on its own motion after it reviews the pleadings and state court record.

Likewise, the Court will deny without prejudice Petitioner's motion for an evidentiary hearing until such time as it has reviewed the record and Respondent's answer to determine whether a hearing is permissible and warranted. The Court will reconsider the request for an evidentiary hearing on its own motion – and without the need for Petitioner to file an additional motion – if it determines that an evidentiary hearing is permissible and appropriate.

Accordingly, Petitioner's motion for appointment of counsel and motion for an evidentiary hearing are **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

/s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: July 8, 2019

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 8, 2019, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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